MC-275

Name CARL SIMMONS, E96088

Address CALIPATRIA STATE PRISON

PO BOX 5002

CALIPATRIA, CA 92233

CDC or ID Number B5-246

2254 ✓ 1983
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ___ No ✓
COPIES SENT TO
Court ✓ ProSe ___

FILED
JUN 20 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY ___ DEPUTY

Superior Court of California
County of San Bernardino
(Court)

'08 CV 1127 W POR

PETITION FOR WRIT OF HABEAS CORPUS

Simmons
Petitioner

vs.

Davis
Respondent

No: 4 00 ~~2272~~ [Oath of Office]

LEGAL MAIL ONLY

INSTRUCTIONS—READ CAREFULLY

- **If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.**
- **If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.**

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

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www.FormsWorkflow.com

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This petition concerns: : $187,000 (compensation for erroneous conviction).

- [ ] A conviction
- [ ] Parole
- [ ] A sentence
- [ ] Credits
- [ ] Jail or prison conditions
- [ ] Prison discipline
- [x] Other (specify): : "continued on additional page."

THE WITHIN INSTRUMENT IS A CORRECT COPY OF THE TRUST ACCOUNT MAINTAINED BY THIS OFFICE.
ATTEST: 6-20-08
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY [signature]
TRUST OFFICE

1. Your name: "Referee:" CARL DWAYNE SIMMONS [dob 8/24/71] CDC # E-96088
2. Where are you incarcerated? Wasco State Prison (WSP) 701 Scofield Ave, Po Box 8800, Wasco 93280-8800
3. Why are you in custody? [ ] Criminal Conviction [x] Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

B207853
Santa Barbara County No. 214013

b. Penal or other code sections: : "Amount demanded exceeds $10,000" [271 Cal. Rptr. 893].

c. Name and location of sentencing or committing court: : "Limited Civil Case," : "special assignments" "Electronically filed by the Superior Court of California, County of Sacramen-to"

d. Case number: : DAVID Y. STANLEY

e. Date convicted or committed: : (916) 452-9185

f. Date sentenced: : DAVID Y. STANLEY (67660)

g. Length of sentence: : CARL D. SIMMONS E-96088

h. When do you expect to be released? "Special assignment" "sides" "relation back".

i. Were you represented by counsel in the trial court? [ ] Yes. [x] No. If yes, state the attorney's name and address:

California Department of Corrections and Rehabilitation
Board of Parole Hearings
P.O. Box 4036
Sacramento, California 95812-4036

4. What was the LAST plea you entered? [ ] Not guilty [ ] Guilty [ ] Nolo Contendere [x] Other: "Great Lakes Rule" ..... "Visiting".

5. If you pleaded not guilty, what kind of trial did you have?

[ ] Jury [ ] Judge without a jury [ ] Submitted on transcript [x] Awaiting trial

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6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." *(if you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)*

PLEASE TAKE NOTICE that Defendant/Appellant hereby appeals from the judgment entered on December 6, 1996, in the above-entitled court, the Honorable Judge Nathan Agliano presiding.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time *(when)* or place *(where)*. *(If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)*

DATED: January 10, 1997

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

: KAREN R. ATKINS
Deputy Public Defender
Trial Counsel for Defendant/
Appellant in Propria Persona

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7. Ground 2 or Ground ______ *(if applicable)*:

The issues on appeal include, but are not limited to: The court erred in failing to have a full hearing on the defendant's challenge to the racial composition of the jury.

a. Supporting facts:

DATED: January 10, 1997

b. Supporting cases, rules, or other authority:

Defendant is incarcerated at Wasco State Prison-Reception Center, 701 Scofield Avenue, P.O. Box 8800, Wasco, California, 93280-8800. He has been committed to the Department of Corrections to serve a sentence of life plus 27 1/3 years in state prison.

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8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☒ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

b. Result ______ c. Date of decision: ______

d. Case number or citation of opinion, if known: ______

e. Issues raised: (1) ______

(2) ______

(3) ______

f. Were you represented by counsel on appeal? ☐ Yes. ☐ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☐ Yes ☒ No. If yes, give the following information:

a. Result ______ b. Date of decision: ______

c. Case number or citation of opinion, if known: ______

d. Issues raised: (1) ______

(2) ______

(3) ______

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

REQUEST FOR APPOINTMENT OF COUNSEL

ADDRESS OF DEFENDANT

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

& KAREN R. ATKINS

Deputy Public Defendar

Trial Counsel for Defendant/

Appellant in Propria Persona

Sincerely,

Loretta Broussard

Investigator Support Assistant

Los Angeles District Office

b. Did you seek the highest level of administrative review available? ☒ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies. ISBN 0-314-22877-2

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12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or **issue** in any court? ☐ Yes. If yes, continue with number 13. ☒ No. If no, skip to number 15.

13. a. (1) Name of court: ______

(2) Nature of proceeding (for example, "habeas corpus petition"): ______

(3) Issues raised: (a) ______

(b) ______

(4) Result *(Attach order or explain why unavailable)*: ______

(5) Date of decision: ______

b. (1) Name of court: ______

(2) Nature of proceeding: ______

(3) Issues raised: (a) ______

(b) ______

(4) Result *(Attach order or explain why unavailable)*: ______

(5) Date of decision: ______

c. *For additional prior petitions, applications, or motions, provide the same information on a separate page.*

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

______

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

The evidence was insufficient.
The sentence is cruel and unusual.

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

______

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

______

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

The prosecution was impermissibly permitted to enter victim's character into evidence.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: MAY 22, 2008

[signature]
(SIGNATURE OF PETITIONER)

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, 'under penalty of perjury.' DECLARE UNDER PENALTY OF PERJURY THAT: I AM THE 'Public officer and employee' IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 27th DAY OF: MARCH ~~20~~ 1997 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

U.S. POSTAGE 7.72 H METER 701659

(SIGNATURE) ______________ R)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, Carl Simmons, E96088 AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002. CALIPATRIA, CALIFORNIA #92233-5002.

ON June 17, 2008 I SERVED THE FOREGOING: : 'Service is being made under Code of Civil Proce-dure section 1011 (b) on a party whose residence address is unknown.'

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: : 3/20/98

U.S. POSTAGE 00.704 H METER 710636

CERTIFICATE OF MAILING
C.C.P. SEC. 1013a

I do hereby certify that I am not a party to the within stated cause and that on NOV 12 1999 I deposited true and correct copies of the following documents: ORDER in sealed envelopes with postage thereon fully prepaid, in the mail at ~~Monterey,~~ Salinas, California, directed to each of the following named persons at their respective addresses as hereinafter set forth:

BILL LOCKYEAR, ATTORNEY GENERAL
455 Golden Gate Avenue, Suite 11000
San Francisco, Ca 94102-3664

ANTHONY LAMARQUE, WARDEN
Salinas Valley State Prison
P.O. Box 1060
Soledad, CA 93960-1060

CARL D. SIMMONS, E-96088
Salinas Valley State Prison
P.O. Box 1060, D2-104L
Soledad, CA 93960-1060

RECEIVED
APR 2 3 2008
BOARD OF PAROLE HEARINGS
QUALITY CONTROL UNIT

Dated: NOV 12 1999

SHERRI L. PEDERSEN, Clerk of the Coordinated Trial Courts of Monterey County

by L. Morris
Deputy L. MORRIS

MC-030

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name and Address)*: TELEPHONE NO.:

ATTORNEY FOR *(Name)*:

NAME OF COURT:

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PLAINTIFF/PETITIONER:

DEFENDANT/RESPONDENT:

DECLARATION

CASE NUMBER:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

☐ Petitioner/Plaintiff ☐ Respondent/Defendant ☐ Attorney

☐ Other *(specify)*:

(See reverse for a form to be used if this declaration will be attached to another court form before filing)

MC-031

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

This form must be attached to another form or court paper before it can be filed in court.

NOTICE TO ______________________________
(Insert name of defendant or cross-defendant)

______________________________ reserves the right to seek
(Insert name of plaintiff or cross-complainant)

$ ______________________________ in punitive damages
(Insert dollar amount)

when ______________________________ seeks a judgment in the
(Insert name of plaintiff or cross-complainant)

suit filed against you.

______________________________ ______________
(Insert name of attorney or party appearing in propria persona) (date)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.... (TYPE OR PRINT NAME)

▶ ______________________________ (SIGNATURE OF DECLARANT)

☐ Petitioner/Plaintiff ☐ Respondent/Defendant ☐ Attorney
☐ Other *(Specify)*:

(See reverse for a form to be used if this declaration is not to be attached to another court paper before filing)

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST

CDC 1824 (1/95)

INSTITUTION/PAROLE REGION:	LOG NUMBER:	CATEGORY:
SVSP	00-2961	18. ADA

NOTE: **THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES**

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT)	CDC NUMBER	ASSIGNMENT	HOURS/WATCH	HOUSING
Mr. Simmons, Carl Dwayne Jr. n.a.	E-96088	§ 19593.5	(VCGCB)	(EEOC)

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

: Carl Simmons vs. Salinas Valley State Prison
EEOC Charge No. 556-2007-00278

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

Carl Simmons, E-96088
C8-223 Upper
P.O. Box 1050 Fac. C
Soledad, CA 93960
Salinas Valley State Prison

DESCRIBE THE PROBLEM: : Institution Appeal Log # SVSP 00-2961 ADA. CIP.

Telephone: 415/356-5170
FAX: 415/356-5156
Website: www.nlrb.gov
Region's 20's E-Mail: region20@nlrb.gov
Direct Dial: 415/356-5175

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

255 E TEMPLE STREET, 4TH FLOOR
LOS ANGELES, CALIFORNIA 90012
1-800-669-4000
(213) 894-1000
TDD (213) 894-1121

© Mr. Carl D. Simmons Jr. n.a. 'seal'
INMATE/PAROLEE'S SIGNATURE

February 7, 2008
DATE SIGNED

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST
CDC 1824 (1/95)

REVIEWER'S ACTION

DATE ASSIGNED TO REVIEWER:
DATE DUE:

TYPE OF ADA ISSUE

☐ PROGRAM, SERVICE, OR ACTIVITY ACCESS (Not requiring structural modification)
- ☐ Auxiliary Aid or Device Requested
- ☐ Other____________________________________

☐ PHYSICAL ACCESS (requiring structural modification)

DISCUSSION OF FINDINGS:

DATE INMATE/PAROLEE WAS INTERVIEWED

PERSON WHO CONDUCTED INTERVIEW

DISPOSITION

☐ GRANTED ☐ DENIED ☐ PARTIALLY GRANTED

BASIS OF DECISION:

NOTE: *If disposition is based upon information provided by other staff or other resources, specify the resource and the information provided. If the request is granted, specify the process by which the modification or accommodation will be provided, with time frames if appropriate.*

DISPOSITION RENDERED BY: (NAME)	TITLE	INSTITUTION/FACILITY

APPROVAL

ASSOCIATE WARDEN'S SIGNATURE	DATE SIGNED

DATE RETURNED TO INMATE/PAROLEE

INMATE/PAROLEE APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region 1. CCI-5 2. ______
Log No. 1. 99-116 2. ______
Category ℅ Gokey MA

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Mr. Simmons, Carl Dwayne Jr. n.a.	S163925	"assigned caseworker" "relate back"	FAX (213) 894-1118

A. Describe Problem: "(e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections facility or a Youth Authority facility facility, the small claims court shall have jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.

If you need more space, attach one additional sheet. The prayer for relief.

B. Action Requested: "And the plaintiff (as your orator) prays for such further or other relief as the nature of the case may require, and as may be agreeable to equity and good conscience."

Inmate/Parolee Signature: ® Mr. Carl D. Simmons Jr. n.a. © seal Date Submitted: December 27, 2006

C. INFORMAL LEVEL (Date Received: ______

Staff Response: ______

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SAN JOSE LOCAL OFFICE
96 NORTH THIRD STREET, SUITE 200
SAN JOSE, CA 95112

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

Staff Signature: ______ Date Returned to Inmate: ______

D. FORMAL LEVEL
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

STATE OF CALIF BOARD OF CONTROL
GOV'T CLAIMS DIV.
PO BOX 3035
SACRAMENTO CA 95812-3035

Signature: ______ Date Submitted: ______

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

©D052478

First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other ______

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: ______ Due Date: ______

Interviewed by: ______

Staff Signature: ______ Title: ______ Date Completed: ______

Division Head Approved: Returned

Signature: ______ Title: ______ Date to Inmate: ______

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

(d) [Remitted communication] An applicant may make ex parte communications with the court; such communications shall deal only with the accommodation(s) the applicant's disability requires and shall not deal in any manner with the subject matter or merits of the proceedings before the court.

Signature: Mr. Carl D. S[illegible] Jr., n.a. 'seal' Date Submitted: 9/19/00

Second Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other ______

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: ______ Due Date: ______

☐ See Attached Letter

Signature: ______ Date Completed: ______

Warden/Superintendent Signature: ______ Date Returned to Inmate: ______

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

(2) An applicant or any participant in the proceeding in which an accommodation has been denied or granted may seek review of a determination made by a presiding judge or any other judicial officer of a court within 10 days of the date of the notice of denial or grant by filing a petition extraordinary relief in a court of superior jurisdiction.

Signature: Mr. Carl D. S[illegible] Jr., n.a. 'seal' Date Submitted: 10/5/00

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

ENTERED APR 2 0 2000

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other ______

☒ See Attached Letter

Date: [illegible]

CDC 602 (12/87)

—DO NOT FILE WITH THE COURT—

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name and Address)*: ATTORNEY FOR *(Name)*:	TELEPHONE NO.:
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
REQUEST FOR STATEMENT OF WITNESSES AND EVIDENCE **Requesting Party *(name)*:** **Responding Party *(name)*:**	CASE NUMBER:

Under Code of Civil Procedure section 96, you are requested to serve on the undersigned, within 20 days, a statement of:

1. The names and street addresses of witnesses you intend to call at trial (except for any individual who is a party to this action).

2. A description of each document that you intend to offer at trial. Attach a copy of each document available to you.

3. A description of each photograph and other physical evidence you intend to offer at trial.

Witnesses and evidence that will be used only for impeachment need not be included.

YOU WILL NOT BE PERMITTED TO CALL ANY WITNESS OR INTRODUCE ANY EVIDENCE NOT INCLUDED IN YOUR RESPONSE TO THIS REQUEST, EXCEPT AS OTHERWISE PROVIDED BY LAW.

Date:

(TYPED OR PRINTED NAME) (SIGNATURE OF PARTY OR ATTORNEY)

SC-100 Plaintiff's Claim and ORDER to Go to Small Claims Court

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of
IMPERIAL
220 MAIN ST.
BRAWLEY, CA 92227

Clerk fills in case number and case name:

Case Number:

Case Name:

Notice to the person being sued:

- You are the Defendant if your name is listed in ② on page 2 of this form. The person suing you is the Plaintiff, listed in ① on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Order to Go to Court

The people in ① and ② must go to court: *(Clerk fills out section below.)*

Trial Date	Date	Time	Department	Name and address of court if different from above
	1.			
	2.			
	3.			

Date: ____________ Clerk, by ______________________________, Deputy

Instructions for the person suing:

- You are the Plaintiff. The person you are suing is the Defendant.
- *Before* you fill out this form, read Form SC-150, *Information for the Plaintiff (Small Claims)*, to know your rights. Get SC-150 at any courthouse or county law library, or go to: *www.courtinfo.ca.gov/forms*
- Fill out pages 2 and 3 of this form. Then make copies of **all** pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- **Go to court on your trial date listed above.** Bring witnesses, receipts, and any evidence you need to prove your case.

American LegalNet, Inc. www.FormsWorkflow.com

Plaintiff *(list names)*: ______________________________

Case Number:

1 The Plaintiff (the person, business, or public entity that is suing) is:

Name: ~~SIMMONS, CARL DWAYNE~~ ~~SC-102 L~~ Phone: ~~(760) 348-7000~~

Street address: ~~3104 'O' Street, #195, Sacramento, CA 95816-6519~~
Street City State Zip

Mailing address *(if different)*: ~~300 S. Spring Street, Suite 800, Los Angeles, California 90013~~
Street City State Zip

If more than one Plaintiff, list next Plaintiff here:

Name: ______________________________ Phone: ( )

Street address: ______________________________
Street City State Zip

Mailing address *(if different)*: ______________________________
Street City State Zip

☐ *Check here if more than 2 Plaintiffs and attach Form SC-100A.*

☐ *Check here if either Plaintiff listed above is doing business under a fictitious name. If so, attach Form SC-103.*

2 The Defendant (the person, business, or public entity being sued) is:

Name: ~~Carl Dwayne Simmons E-96088~~ Phone: ~~(661) 822-4402~~

Street address: ~~California Correctional Institution (CCI) 24900 Hwy. 202, PO Box 1031, Tehachapi 93581~~
Street City State Zip

Mailing address *(if different)*: ~~Calipatria State Prison, Calipatria (CAL) 7018 Blair Rd, PO Box 5001, Calipatria~~
Street City State Zip ~~92233-5001~~

If more than one Defendant, list next Defendant here:

Name: ______________________________ Phone: ( )

Street address: ______________________________
Street City State Zip

Mailing address *(if different)*: ______________________________
Street City State Zip

☐ *Check here if more than 2 Defendants and attach Form SC-100A.*

☐ *Check here if any Defendant is on active military duty, and write his or her name here:* ______________

3 The Plaintiff claims the Defendant owes $ ~~25,000 "+?"~~ . *(Explain below)*:

a. Why does the Defendant owe the Plaintiff money? ______________________________

b. When did this happen? *(Date)*: ~~3/20/98~~

If no specific date, give the time period: *Date started*: ~~3/20/98~~ *Through*: ~~"received?"~~

c. How did you calculate the money owed to you? *(Do not include court costs or fees for service.)* ~~B/H~~

☐ *Check here if you need more space. Attach one sheet of paper or Form MC-031 and write "SC-100, Item 3" at the top.*

Plaintiff *(list names)*: ______________________

Case Number:

4 **You must ask the Defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this?** ☒ Yes ☐ No

If no, explain why not: ______________________

5 **Why are you filing your claim at this courthouse?**

This courthouse covers the area *(check the one that applies)*:

a. ☒ (1) Where the Defendant lives or does business.
(2) Where the Plaintiff's property was damaged.
(3) Where the Plaintiff was injured.
(4) Where a contract (written or spoken) was made, signed, performed, or broken by the Defendant *or* where the Defendant lived or did business when the Defendant made the contract.

b. ☐ Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim is about an offer or contract for personal, family, or household goods, services, or loans. *(Code Civ. Proc., § 395(b).)*

c. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). *(Civil Code, § 1812.10.)*

d. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. *(Civil Code, § 2984.4.)*

e. ☐ Other *(specify)*: ______________________

6 **List the zip code of the place checked in ⑤ above** *(if you know)*: ~~PO Box 5004~~

7 **Is your claim about an attorney-client fee dispute?** ☒ Yes ☐ No

If yes, and if you have had arbitration, fill out Form SC-101, attach it to this form, and check here: ☒

8 **Are you suing a public entity?** ☒ Yes ☐ No

If yes, you must file a written claim with the entity first. ☒ A claim was filed on *(date)*: ______________________

If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

9 **Have you filed more than 12 other small claims within the last 12 months in California?**

☐ Yes ☒ No *If yes, the filing fee for this case will be higher.*

10 **I understand that by filing a claim in small claims court, I have no right to appeal this claim.**

11 I have not filed, and understand that I cannot file, more than two small claims cases for more than $2,500 in California during this calendar year.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: __________ ______________________ ▶ ______________________
Plaintiff types or prints name here *Plaintiff signs here*

Date: __________ ______________________ ▶ ______________________
Second Plaintiff types or prints name here *Second Plaintiff signs here*

Requests for Accommodations

Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, *Request for Accommodations by Persons With Disabilities and Order. (Civil Code, § 54.8.)*

SC-100 Information for the Defendant (the person being sued)

"Small claims court" is a special court where claims for $5,000 or less are decided. A "natural person" (not a business or public entity) may claim up to $7,500. The process is quick and cheap. The rules are simple and informal.

You are the Defendant—the person being sued. The person who is suing you is the Plaintiff.

Do I need a lawyer?

You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

How do I get ready for court?

You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and any evidence that supports your case. And read "Get Ready for Court" at: *www.courtinfo.ca.gov/selfhelp/smallclaims/getready.htm*

What if I need an accommodation?

If you have a disability or are hearing impaired, fill out Form MC-410, *Request for Accommodations*. Give the form to your court clerk or the ADA/Access Coordinator.

What if I don't speak English well?

Ask the clerk if the court can give you an interpreter for free. If not, bring someone—like an adult relative or friend—who can interpret for you in court. It is best if your interpreter is not a witness or listed in this case. Or ask the clerk for a list of interpreters. (Interpreters usually charge a fee.)

Where can I get the court forms I need?

Go to any courthouse or your county law library, or print forms at: *www.courtinfo.ca.gov/forms*

What happens at the trial?

The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

What if I lose the case?

If you lose, you can appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file Form SC-140, *Notice of Appeal*. You must file within 30 days after the judge's decision.
- If you were *not* at the trial, fill out and file Form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File Form SC-140.

For more information on appeals, see: *www.courtinfo.ca.gov/selfhelp/smallclaims/appeal.htm*

Do I have options?

Yes. If you are being sued, you can:

- **Settle your case before the trial.** If you and the Plaintiff agree on how to settle the case, both of you must notify the court. Ask the Small Claims Advisor for help.
- **Prove this is the wrong court.** Send a letter to the court *before* your trial, explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done this.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To make sure the witnesses go to the trial, fill out Form SC-107, and the clerk will subpoena (order) them to go.
- **Sue the person who is suing you.** File Form SC-120, *Defendant's Claim*. There are strict filing deadlines you must follow.
- **Agree with the Plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the Plaintiff what he or she is asking for plus court costs. If this happens, the Plaintiff can legally take your money, wages, and property to pay the judgment.

What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial) *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county) *or*
- You need more time to get an interpreter. One postponement is allowed, and you will not have to pay a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out Form SC-110 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.

Need help?

Your county's Small Claims Advisor can help for free.

(760) 482-4359

Or go to "County-Specific Court Information" at: *www.courtinfo.ca.gov/selfhelp/smallclaims*

SC-100 Información para el demandado (la persona demandada)

La **"Corte de reclamos menores"** es una corte especial donde se deciden casos por $5,000 ó menos. Una "persona natural" (que no sea un negocio ni una entidad pública) puede reclamar hasta $7,500. El proceso es rápido y barato. Las reglas son sencillas e informales.

Usted es el Demandado — la persona que se está demandando. La persona que lo está demandando es el Demandante.

¿Necesito un abogado?
Puede hablar con un abogado antes o después del caso. Pero *no puede* tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

¿Cómo me preparo para ir a la corte?
No tiene que presentar ningunos papeles antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos, y cualquier pruebas que apoyan su caso. Y lea "Prepárese para la corte" en:
www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/prepararse.htm

¿Qué hago si necesito una adaptación?
Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, *Request for Accomodations.* Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo bien inglés?
Pregúntele al secretario si la corte le puede dar un intérprete sin costo. Si no, lleve consigo a alguien– ya sea un pariente adulto o amigo– que pueda servirle de intérprete en la corte. O pide del secretario una lista de intérpretes. Es mejor que su intérprete no sea un testigo ni una persona que figure en este caso. (Los intérpretes en general cobran un honorario.)

¿Dónde puedo obtener los formularios de la corte que necesito?
Vaya a cualquier edificio de la corte, la biblioteca legal de su condado o imprima los formularios en:
www.courtinfo.ca.gov/forms

¿Qué pasa en el juicio?
El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

¿Qué pasa si pierdo el caso?
Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación.* Tiene que presentarlo dentro de 30 días depués de la decisión del juez.
- Si *no* estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración* para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea:
www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/apelar.htm

¿Tengo otras opciones?
Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en resolver el caso, ambos tienen que notificar a la corte. Pídale al Asesor de Reclamos Menores que lo ayude.
- **Probar que es la corte equivocada.** Envíe una carta a la corte *antes* del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Para asegurarse que los testigos vayan al juicio, llene el formulario SC-107, y el secretario emitirá una orden de comparecencia ordenándoles que se presenten.
- **Demandar a la persona que lo demandó.** Presente el formulario SC-120, *Reclamo del demandado.* Hay fechas límite estrictas que debe seguir.
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

¿Qué hago si necesito más tiempo?
Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio) *o*
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado) *o*
- Necesita más tiempo para conseguir intérprete. (Se permite un solo aplazamiento sin tener que pagar cuota para aplazar el juicio).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-110 (o escriba una carta) y envíelo antes del plazo a la corte *y* a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.

¿Necesita ayuda? El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

(760) 482-4359

O vea "Información por condado" en:
www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores

SC-101 Attorney Fee Dispute (After Arbitration)

Case Number:

☑ This form is attached to Form SC-100, item 7. It tells the court that you are suing about a disagreement for $5,000 or less in attorney fees and that you have tried to solve the disagreement through arbitration. Read page 2 of this form before you fill out this form. It explains your rights and some small claims terms.

(1) How much money is in dispute? $ ________________ (2) You are *(check one)*: ☐ Attorney ☐ Client

(3) What did the arbitrator decide? *(Check one)*:
a. ☐ The ☐ attorney ☐ client has to pay the other party this amount: $ ________________
b. ☐ Neither party has to pay the other party anything.

(4) Write the date your Notice of Award was mailed here: ________________ *(Look at the bottom of the Notice.)*

(5) **Why are you filing in small claims court now?** *(Check what you are asking the judge to do)*:
a. ☐ I want the court to **confirm** the award.
b. ☐ I want the court to **correct** the award because *(check only one and explain below)*:
1. ☐ It contains an error in calculation or a mistake in describing someone or something in the award.
2. ☐ The arbitrator considered legal issues not allowed in this kind of hearing and the award can be corrected so it is fair.
3. ☐ It doesn't follow the rules for proper wording, information, or signature. *(State Bar Rule 37.2 et seq.)*

Explain: ____

____

c. ☐ I want the court to **vacate (cancel)** the award because *(check only one and explain below)*:
1. ☐ It was obtained by fraud, corruption, or other unfair means.
2. ☐ The arbitrator was corrupt.
3. ☐ The arbitrator did something wrong that substantially hurt my case.
4. ☐ The arbitrator considered legal issues not allowed in this kind of hearing and the award cannot be corrected so it is fair.
5. ☐ The arbitrator unfairly refused to postpone my case or refused to consider important evidence that could help settle the dispute or conducted the hearing in another way that is not allowed.
6. ☐ The arbitrator knew of reasons why he or she could have been disqualified but did not disclose this information or did not disqualify himself or herself after I asked the arbitrator to do so at the proper time.

Explain: ____

____

☐ Check here if you are asking for a new arbitration hearing.

d. ☐ I want a **trial** in small claims court to decide the fee dispute. *(You can check this option only if you did not agree in writing to a binding award **and** you file this form within 30 days after the Notice of the Award.)*

(6) Did you (or your attorney) go to the arbitration hearing? ☐ Yes ☐ No *(If no, explain below)*:

____

____

(7) Attach a copy of the Arbitration Agreement and the Notice of Award (the arbitrator's decision).
If you do not attach them, explain why here: ____

____

Date: ____________ ________________________ ▶ ________________________
Type or print your name *Sign your name*

Your name: ______________________ | Case Number:

What is arbitration?

Arbitration is when a neutral person (an arbitrator) hears evidence from each side and then makes a decision (award) in your case. It is less formal than a trial in court.

Do I *have* to use arbitration for this dispute?

In most cases, yes. The only exceptions are:

- Parties who did not sign an agreement to arbitrate fee disputes *and*
- Clients who do not want to use arbitration. The attorney *must* use arbitration if the client asks for it.

What is *nonbinding* arbitration?

Nonbinding arbitration allows you *or* the other side to ask for a trial if either of you does not like the arbitrator's decision. You have 30 days after the notice is mailed to ask for a trial.

What is *binding* arbitration?

Binding arbitration means you and the other side gave up your right to a trial and must accept the arbitrator's decision. Your arbitration is binding if:

- Both sides agreed to binding arbitration in writing (after they disagreed about fees or costs) *or*
- 30 days or more have gone by since the nonbinding decision was mailed.

What if I agree with the award?

If your award is *nonbinding* and the other party does not file papers asking for a trial, the award becomes binding in 30 days.

If the award is *binding* and it says the other party owes you money, send a letter asking to be paid within a reasonable time. If you don't get paid, ask the court to "confirm" the award. This allows you to ask the court to order payment from the other party's paycheck, bank accounts or property. You must do this within 4 years after the notice of award. (See page 1, item 5a.)

What if I am not happy with the award?

You can ask the court to **correct** the award if it contains an obvious mistake in calculating a number or describing a person, thing, or property. (See page 1, item 5b.)

You can ask the court to **vacate (cancel)** the award if certain kinds of misconduct or mistakes happened in the arbitration. (See page 1, item 5c.)

You can reject the award and **ask for a trial** if you and the other party did not agree in writing to binding arbitration. (See page 1, item 5d.)

How long do I have to ask for a trial?

You have up to 30 days after the date the Notice of Award was mailed to you. Look for the date on the bottom of the notice. If you do not ask for a trial within 30 days, the award will become binding.

How long do I have to ask the court to vacate or correct the award?

In most cases you have up to 100 days after the date the Notice of Award was mailed to you. But if the other side asks the court to confirm, correct, or vacate the award, you must ask the court to correct or vacate the award before the court's deadline to answer the other side's request. Your Small Claims Advisor can give you more information on court deadlines.

Which court do I use for a trial or to confirm, correct, or vacate the award?

If a lawsuit has already been filed about the fee disagreement, file your papers in the same court and use same case number as in that lawsuit. (Before filing, you must serve all parties named in the claim.)

If no lawsuit has been filed about the fee disagreement, file in the court of the county where the arbitration was held and ask for a trial or ask the court to confirm, correct, or vacate the award.

- If the amount in disagreement is $5,000 or less, file in small claims court. Use Forms SC-100 and SC-101.
- If the amount in disagreement is more than $5,000, file in superior court. See Form ADR-105.

What if an attorney doesn't pay the award?

If an attorney doesn't pay the award, the State Bar can help you. If you don't receive the award in 100 days after receiving the Notice of the Award, or if the award becomes a final judgment, contact the State Bar at:

Mandatory Fee Arbitration
180 Howard Street, 6th Floor
San Francisco, CA 94105-1639
415-538-2020

More Information

California has special laws for arbitration of disputes over attorney fees. For more information, see:

- State Bar of California Web site: *www.calbar.org*
- Form ADR-105, *Information Regarding Rights After Attorney-Client Fee Arbitration*
- Cal. Business & Professions Code, §§ 6200–6206

SC-103 Fictitious Business Name

Case Number:

This form is attached to: ☐ Form SC-100 **OR** ☐ Form SC-120

1. **If you want to file a small claim and you are doing business under a fictitious name ("doing business as," or "dba") give the following information.** *(Nonprofits and exempt real estate investment trusts do not have to file this form.)*

   Business name of the person suing: ____________________

   Business address *(not a U.S. Postal Service P.O. Box)*: ____________________

   Mailing address *(if different)*: ____________________

2. **The business listed in ① does business as** *(check ONLY one)*:

   ☐ an individual ☐ a corporation
   ☐ an association ☐ a limited liability company
   ☐ a partnership ☐ other *(specify)*: ____________________

   You must follow the laws for fictitious business names. If you have not followed these laws, including filing a fictitious business name statement in your county and publishing this information in a local newspaper, the court can dismiss your case.

3. **Name of county where you filed your Fictitious Business Name Statement (dba):**

   ____

4. **Your Fictitious Business Name Statement number:** ____________________

5. **Date your Fictitious Business Name Statement expires:** ____________________

6. I declare, under penalty of perjury under California State law, that the information above is true and correct. **Only the owner, president, chief executive officer (CEO), or other qualified officer can sign this form.**

Date: ____________________

____________________ ____________________
Type or print your name and title *Sign your name*

Need help?
Your county's Small Claims Advisor can help for free.

Or go to "County-Specific Court Information" at: *www.courtinfo.ca.gov/selfhelp/smallclaims*

American LegalNet, Inc.
www.USCourtForms.com

SC-104 Proof of Service

Clerk stamps date here when form is filed.

Use this form to serve a **person**, **business**, or a **public entity.** To learn more about proof of service, read *What Is "Proof of Service"?,* Form SC-104B. To learn more about how to serve a business or entity, read *How to Serve a Business or Public Entity,* Form SC-104C.

To serve a **business**, you must serve **one** of the following people:

- Owner (for a sole proprietorship)
- Partner (for a partnership) or general partner (for a limited partnership)
- Any officer or general manager (corporation or association)
- Any person authorized for service by the business (corporation, association, general partnership, limited partnership)
- Any person authorized for service with the Secretary of State (corporation, association, limited liability company (LLC), limited liability partnership (LLP), limited partnership)

To serve a **public entity**, you must first file a claim with that entity, then serve **one** of the following people:

- Clerk (of a city or county)
- Chief Officer or Director (of a public agency)
- Any person authorized for service by the entity

Fill in court name and street address:

Superior Court of California, County of

Fill in case number, case name, hearing date, day, time, and department below:

Case Number:	
Case Name:	
Hearing Date:	
Time:	**Dept.:**

(1) a. If you are serving a **person,** write the person's name below:

____

b. If you are serving a **business** or **entity,** write the name of the business or entity, the person authorized for service, and that person's job title:

____

Business or Agency Name — Person Authorized for Service — Job Title

(2) **Instructions to Server:**

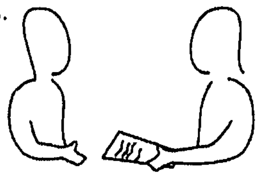
You must be at least 18 years old and **not be named in this case.** Follow these steps:

Give a copy of all the documents checked in (3) to:

- The person in (1), *or*
- A competent adult (at least 18) living with, and at the home of the person in (1), *or*
- An adult (at least 18) who seems to be in charge at the usual workplace of the person in (1), *or*
- An adult (at least 18) who seems to be in charge where the person in (1) receives mail, (but not a U.S. post office box), if there is no known physical address for the person in (1).

THEN,

- Mail a copy of the documents to the person in (1),
- Complete and sign this form, and
- Give or mail your completed form to the person who asked you to serve these court papers.



(3) **I served the person in (1) a copy of the documents checked below:**

a. ☐ SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*

b. ☐ SC-120, *Defendant's Claim and ORDER to Go to Small Claims Court*

c. ☐ Order for examination *(This form must be personally served. Check the form that was served):*

Note: *The court can issue a civil arrest warrant if the served party does not come to court* ***only*** *if the order for examination was personally served by a registered process server, sheriff, marshal, or someone appointed by the court.*

(1) ☐ SC-134, *Application and Order to Produce Statement of Assets and to Appear for Examination*

(2) ☐ AT-138/EJ-125, *Application and Order for Appearance and Examination*

d. ☐ Other *(specify):* ______________________________

Case name: ____________________

Case Number:

④ **Fill out "a" or "b" below:**

a. ☐ **Personal Service:** I personally gave copies of the documents checked in ③ to the person in ①:

On *(date)*: __________ At *(time)*: __________ ☐ a.m. ☐ p.m.

At this address: ____________________

City: ____________________ State: ______ Zip: ______

b. ☐ **Substituted Service:** I personally gave copies of the documents checked in ③ *(a, b, or d)* to *(check one)*:

☐ a competent adult (at least 18) at the **home** of, and living with the person in ①, or

☐ an adult who seems to be in charge where the person in ① usually **works**, or

☐ an adult who seems to be in charge where the person in ① **receives mail**, or has a private post office box (not a U.S. post office box), if there is no known physical address for the person in ①.

I told that adult, "Please give these court papers to (name of person in ①)."

I did this on *(date)*: __________ At *(time)*: ______ ☐ a.m. ☐ p.m.

At this address: ____________________

City: ____________________ State: ______ Zip: ______

Name or description of the person I gave the papers to: ____________________

After serving the court papers, I put copies of the documents listed in ③ in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person in ① at the address where I left the copies.

I mailed the envelope on *(date)*: __________ from *(city, state)*: __________

by leaving it *(check one)*:

a. ☐ At a U.S. Postal Service mail drop, or

b. ☐ At an office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service, or

c. ☐ With someone else I asked to mail the documents to the person in ① and I have attached that person's completed Form SC-104A.

⑤ **Server's Information**

Name: ____________________ Phone: __________

Address: ____________________

City: ____________________ State: ______ Zip: ______

Fee for service: $ __________

If you are a registered process server:

County of registration: __________ Registration number: __________

⑥ I declare under penalty of perjury under California state law that I am at least 18 years old and not named in this case and that the information above is true and correct.

Date: __________

____________________ ▶ ____________________

Type or print server's name *Server signs here after serving*

To serve a public entity, see page 2.

SC-104C How to Serve a Business or Public Entity (Small Claims)

You must serve the *right* person and write the *exact* name of the business and the person to be served.
Use this form to make sure you serve correctly, and follow the instructions on *Proof of Service,* Form SC-104.

Business Type:	**Sole Proprietorship** (Only 1 owner)	**Partnership**	**Landlord**	**Corporation, Association**	**Limited Liability Company (LLC), Limited Liability Partnership (LLP), Limited Partnership (LP)**	**Unknown Business Type**
Serve:	The owner	If you are suing a **partnership,** serve one of the partners. If you are suing a **partnership** *and* the partners, serve each partner.	The property owner or manager *(Read Civil Code sections 1962–1962.7.)*	Agent for service listed with Secretary of State or any corporate officer (president, vice-president, secretary, treasurer), chief executive officer (CEO), controller, chief financial officer, or general manager	Agent for service listed with Secretary of State To serve a limited partnership, you can also serve the general partner.	Someone who seems to be in charge of the business during normal business hours
Write on your *Proof of Service* form:	• Business name • Owner's name and job title	• Partnership name • Name of partner, general manager, or agent for service and job title	• Business name (if there is one) • Owner's name and job title	• Corporation name • Name of corporate officer or agent for service and job title	• Company or partnership name • Name of agent or partner for service and job title	• Business name, form unknown • Owner's name and job title *(if you know it)*
Check that you have the *exact* names of the owner and business with:	• County Clerk–Recorder's or County Tax Assessor's Office (Ask to see the fictitious business name statement.) Your county's Web site may have this information. Check: ***www.csac.counties.org.*** • City Clerk's Office (Ask to see the business license.) Your city's Web site may have this information.		County Tax Collector	Search under Corporation, LP and LLC at the California Secretary of State Web site: ***www.ss.ca.gov/business*** Or call: **1-916-657-5448** **OR** County Clerk–Recorder's Office: (Ask to see the fictitious business name statement.) Your county's Web site may have this information. **OR** City Clerk's Office: (Ask to see the business license.) Your city's Web site may have this information.		Try the other resources listed on this page to see if they know more about the business's organization type, like corporation or sole proprietorship.

Need help?

For free help, contact your county's Small Claims Advisor:

[space for local info here]

Or, go to "County-Specific Court Information" at: ***www.courtinfo.ca.gov/selfhelp/smallclaims***

To serve a business, see page 1.

SC-104C How to Serve a Business or Public Entity (Small Claims)

You must serve the *right* person and write the *exact* name of the public agency and the person to be served.
Use this form to make sure you serve correctly, and follow the instructions on *Proof of Service,* Form SC-104.

	City, County, or Public Entity	**State of California, State Agency**	**Federal Agency**
Serve:	City or county clerk, chief officer or director of public agency, or agent authorized to accept service	Use this general address for service: Office of the Attorney General 1300 I Street Sacramento, CA 95814 *Exception:* if your claim involves California Department of Transportation (Caltrans), serve it at: California Department of Transportation 1120 N Street Sacramento, CA 95814	*You cannot sue a **federal** agency in small claims court.*
	Important! *Before you sue, you must **first** file a claim with the public entity. Contact it and ask for the claim procedures.*	*Note:* *Before you sue, you must first file a claim with the state or the state agency. To file a claim, see:* ***www.boc.ca.gov/govclms.htm*** *Or call:* **1-800-955-0045**	
Write on your *Proof of Service* form:	• Name of city, county, or public entity • Name of city clerk, county clerk, chief officer, or agent for service and job title	• Name of the agency you are suing • Name of agent for service	
Check that you have the exact names of the agency and agent for service with:	Call the city or county clerk. See the government pages of your phone book. Or search under the California Roster at the California Secretary of State Web site ***www.ss.ca.gov/executive***	Call the agency to confirm the name and address for service. Use the State Directory: **1-800-807-6755** Or search: ***www.cold.ca.gov*** *under "agency information"*	

Need help?
For free help, contact your county's Small Claims Advisor:

[space for local info here]

Or, go to "County-Specific Court Information" at: ***www.courtinfo.ca.gov/selfhelp/smallclaims***

SC-120 Defendant's Claim and ORDER to Go to Small Claims Court

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and case name:

Case Number:

Case Name:

Notice to the person being sued:

- You are being sued by the person you are suing.
- You must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached, to understand the claim against you and to protect your rights.

Aviso al demandado:

- La persona que ha demandado lo está demandando a usted.
- Tiene que presentarse a la corte en la fecha de su juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte puede ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas, para entender la demanda en su contra y para proteger sus derechos.

Order to Go to Court

The people in ① and ② must go to court: *(Clerk fills out section below.)*

Trial Date	Date	Time	Department	Name and address of court if different from above
	1. ______	______	______	______
	2. ______	______	______	______
	3. ______	______	______	______

Date: ____________ Clerk, by ______________________, Deputy

Instructions for the person suing:

- *Before* you fill out this form, read Form SC-150, *Information for the Plaintiff (Small Claims),* to know your rights. Get SC-150 at any courthouse or county law library, or go to: *www.courtinfo.ca.gov/forms*
- Fill out pages 2 and 3 of this form. Then make copies of **all** pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Plaintiff a court-stamped copy of all 3 pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- **Go to court on your trial date listed above.** Bring witnesses, receipts, and any evidence you need to prove your case.

Case Number:

Defendant *(list names)*: ______________________________

1. **The Plaintiff (the person, business, or public entity that sued first) is:**

Name: ______________________________ Phone: ( ) ________

Street address: ______________________________
Street City State Zip

Mailing address *(if different)*: ______________________________
Street City State Zip

If more than one Plaintiff, list next Plaintiff here:

Name: ______________________________ Phone: ( ) ________

Street address: ______________________________
Street City State Zip

Mailing address *(if different)*: ______________________________
Street City State Zip

☐ *Check here if more than 2 Plaintiffs and attach Form SC-120A.*

☐ *Check here if any Plaintiff is on active military duty and write his or her name here:* ______________

2. **The Defendant (the person, business, or public entity suing now) is:**

Name: ______________________________ Phone: ( ) ________

Street address: ______________________________
Street City State Zip

Mailing address *(if different)*: ______________________________
Street City State Zip

If more than one Defendant, list next Defendant here:

Name: ______________________________ Phone: ( ) ________

Street address: ______________________________
Street City State Zip

Mailing address *(if different)*: ______________________________
Street City State Zip

☐ *Check here if more than 2 Defendants and attach Form SC-120A.*

☐ *Check here if either Defendant listed above is doing business under a fictitious name. If so, attach Form SC-103.*

3. **The Defendant claims the Plaintiff owes $**______________. *(Explain below):*

a. Why does the Plaintiff owe the Defendant money? ______________________________

____

b. When did this happen? *(Date):* ______________

If no specific date, give the time period: *Date started:* ______________ *Through:* ______________

c. How did you calculate the money owed to you? *(Do not include court costs or fees for service.)* ______________

____

☐ *Check here if you need more space. Attach one sheet of paper or Form MC-031 and write "SC-120, Item 3" at the top.*

Defendant *(list names)*: ______________________________

Case Number:

(4) **You may ask the Plaintiff (in person, in writing, or by phone) to pay you before you sue. Have you done this?** ☐ Yes ☐ No

(5) **Is your claim about an attorney-client fee dispute?** ☐ Yes ☐ No
If yes, and if you have had arbitration, fill out Form SC-101, attach it to this form, and check here: ☐

(6) **Are you suing a public entity?** ☐ Yes ☐ No
If yes, you must file a written claim with the public entity first. ☐ A claim was filed on *(date)*: ______________
If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

(7) **Have you filed more than 12 other small claims within the last 12 months in California?**
☐ Yes ☐ No *If yes, the filing fee for this case will be higher.*

(8) **I understand that by filing a claim in small claims court, I have no right to appeal this claim.**

(9) If I do not have enough money to pay for filing fees or service, I can ask the court to waive those fees.

(10) I have not filed, and understand that I cannot file, more than two small claims cases for more than $2,500 in California during this calendar year.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: __________ ______________________________ ▶ ______________________________
Defendant types or prints name here *Defendant signs here*

Date: __________ ______________________________ ▶ ______________________________
Second Defendant types or prints name here *Second Defendant signs here*

Requests for Accommodations
Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least five days before the trial. Contact the clerk's office or go to *www.courtinfo.ca.gov/forms* for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code, § 54.8.)

Need help?
Your county's Small Claims Advisor can help for free.

Or go to "County-Specific Court Information" at:
www.courtinfo.ca.gov/selfhelp/smallclaims

4. **Substituted service** *(continued)*
A copy of your claim must be left
— at the defendant's business with the person in charge;
OR
— at the defendant's home with a competent person who is at least 18 years old. The person who receives the claim must be told about its contents. Another copy must be mailed, first class, postage prepaid, to the defendant at the address where the paper was left. The service is not complete until *10 days* after the copy is mailed.

No matter which method of service you choose, the defendant must be served by a certain date or the trial will be postponed. If the defendant lives in the county, service must be completed at least *15 days* before the trial date. This period is at least *20* days if the defendant lives outside the county.

The person who serves the defendant must sign a court paper showing when the defendant was served. This paper is called a *Proof of Service* (form SC-104). It must be signed and returned to the court clerk as soon as the defendant has been served.

WHAT IF THE DEFENDANT ALSO HAS A CLAIM?

Sometimes the person who was sued (the **defendant**) will also have a claim against the person who filed the lawsuit (the **plaintiff**). This claim is called the *Defendant's Claim.* The defendant may file this claim in the same lawsuit. This helps to resolve all of the disagreements between the parties at the same time.

If the defendant decides to file the claim in the small claims court, the claim may not be for more than $5,000 or $7,500 if the defendant is a natural person *(*see reverse).* If the value of the claim is more than this amount, the defendant may either give up the amount over $5,000 or $7,500 and sue in the small claims court or file a motion to transfer the case to the appropriate court for the full value of the claim.

The defendant's claim must be served on the plaintiff at least *5 days* before the trial. If the defendant received the plaintiff's claim *10 days* or less before the trial, then the claim must be served at least *1 day* before the trial. Both claims will be heard by the court at the same time.

WHAT HAPPENS AT THE TRIAL?

Be sure you are on time for the trial. The small claims trial is informal. You must bring with you all witnesses, books, receipts, and other papers or things to prove your case. You may ask the witnesses to come to court voluntarily. You may also ask the clerk of the court to issue a **subpoena.** A subpoena is a court order that *requires* the witness to go to trial. The witness has a right to charge a fee for going to the trial. If you do not have the records or papers to prove your case, you may also get a court order prior to the trial date requiring the papers to be brought to the trial. This order is called a *Small Claims Subpoena and Declaration* (form SC-107).

If you settle the case before the trial, you must file a **dismissal** form with the clerk.

The court's decision is usually mailed to you after the trial. It may also be hand delivered to you when the trial is over and after the judge has made a decision. The decision appears on a form called the *Notice of Entry of Judgment* (form SC-130).

WHAT HAPPENS AFTER JUDGMENT?

The court may have ordered one party to pay money to the other party. The party who wins the case and collects the money is called the **judgment creditor.** The party who loses the case and owes the money is called the **judgment debtor.** Enforcement of the judgment is **postponed** until the time for appeal ends or until the appeal is decided. This means that the judgment creditor cannot collect any money or take any action until this period is over. Generally both parties may be represented by lawyers after judgment. More information about your rights after judgment is available on the back of the *Notice of Entry of Judgment* form. The clerk may also have this information on a separate sheet.

HOW TO GET HELP WITH YOUR CASE

1. **Lawyers** — Both parties may ask a lawyer about the case, but a lawyer may not represent either party in court at the small claims trial. Generally, after judgment and on appeal, both parties may be represented by a lawyer.
2. **Interpreters** — If you do not speak English, you may take a family member or friend to court with you. The court should keep a list of interpreters who will interpret for you. Some interpreters charge a reasonable or no fee. If an interpreter is not available, the court must postpone the hearing one time only so that you have time to get one.
3. **Waiver of fees** — The court charges fees for some of its procedures. Fees are also charged for serving the defendant with the claim. The court may excuse you from paying these fees if you cannot afford them. Ask the clerk for the *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO) to find out if you meet the requirements so that you do not have to pay the fees.
4. **Night and Saturday court** — If you cannot go to court during working hours, ask the clerk if the court has trials at **night** or on **Saturdays.**
5. **Parties who are in jail** — If you are in jail, the court may excuse you from going to the trial. Instead, you may ask another person who is not an attorney to go to the trial for you. You may mail written declarations to the court to support your case.
6. **Accommodations** — If you have a disability and need assistance, please ask the court immediately to help accommodate your needs. If you are hearing impaired and need assistance, please notify the court immediately.
7. **Forms** — You can get small claims forms and more information at the California Courts Self-Help Center Web site *(www.courtinfo.ca.gov),* your county law library, or at the courthouse nearest you.
8. **Small claims advisors** — The law requires each county to provide assistance in small claims cases free of charge. *(Small claims advisor information):*

ORIGINAL

SC-150

INFORMATION FOR THE SMALL CLAIMS PLAINTIFF

This information sheet is written for the person who sues in the small claims court. It explains some of the rules of and some general information about the small claims court. It may also be helpful for the person who is sued.

WHAT IS SMALL CLAIMS COURT?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. The person who sues is the **plaintiff.** The person who is sued is the **defendant.** In small claims court, you may ask a lawyer for advice before you go to court, but you cannot have a lawyer in court. Your claim cannot be for more than $5,000 or $7,500 if you are a natural person (not a business or public entity)*(*see below)*. If you have a claim for more than this amount, you may sue in the civil division of the trial court or you may sue in the small claims court and give up your right to the amount over $5,000 or $7,500 if you are a natural person. You cannot, however, file more than two cases in small claims court for more than $2,500 each during a calendar year.

WHO CAN FILE A CLAIM?

1. You must be at least *18 years old* to file a claim. If you are not yet 18, tell the clerk. You may ask the court to appoint a **guardian ad litem.** This is a person who will act for you in the case. The guardian ad litem is usually a parent, a relative, or an adult friend.
2. A person who sues in small claims court must first make a **demand** if possible. This means that you have asked the defendant to pay, and the defendant has refused. If your claim is for possession of property, you must ask the defendant to give you the property.
3. Unless you fall within two technical exceptions, you must be the **original owner** of the claim. This means that if the claim is assigned, the buyer cannot sue in the small claims court. **You must also appear at the small claims hearing yourself unless you filed the claim for a corporation or other entity that is not a natural person.**
4. If a corporation files a claim, an employee, officer, or director must act on its behalf. If the claim is filed on behalf of an association or other entity that is not a natural person, a regularly employed person of the entity must act on its behalf. A person who appears on behalf of a corporation or other entity must not be employed or associated solely for the purpose of representing the corporation or other entity in the small claims court. **You must file a declaration with the court to appear in any of these instances.** (See *Authorization to Appear on Behalf of Party, form* SC-109.))

WHERE CAN YOU FILE YOUR CLAIM?

You must sue in the right court and location. This rule is called **venue.** Check the court's local rules if there is more than one court location in the county handling small claims cases.

If you file your claim in the wrong court, the court will dismiss the claim unless all defendants personally appear at the hearing and agree that the claim may be heard.

The right location may be any of these:

1. Where the defendant lives or where the business involved is located;
2. Where the damage or accident happened;
3. Where the contract was signed or carried out;
4. If the defendant is a corporation, where the contract was broken;
5. For a retail installment account or sales contract or a motor vehicle finance sale:
   a. Where the buyer lives;
   b. Where the buyer lived when the contract was entered into;
   c. Where the buyer signed the contract; or
   d. Where the goods or vehicle are permanently kept.

SOME RULES ABOUT THE DEFENDANT (including government agencies)

1. You must sue using the defendant's *exact legal name.* If the defendant is a business or a corporation and you do not know the exact legal name, check with: the state or local licensing agency; the county clerk's office; or the Office of the Secretary of State, corporate status unit. Ask the clerk for help if you do not know how to find this information. If you do not use the defendant's exact legal name, the court may be able to correct the name on your claim at the hearing or after the judgment.
2. If you want to sue a government agency, you must first file a claim with the agency before you can file a lawsuit in court. Strict time limits apply. If you are in a Department of Corrections or Youth Authority facility, you must prove that the agency denied your claim. Please attach a copy of the denial to your claim.

HOW DOES THE DEFENDANT FIND OUT ABOUT THE CLAIM?

You must make sure the defendant finds out about your lawsuit. This has to be done according to the rules or your case may be dismissed or delayed. The correct way of telling the defendant about the lawsuit is called **service of process.** This means giving the defendant a copy of the claim. **YOU CANNOT DO THIS YOURSELF.** Here are four ways to serve the defendant:

1. **Service by a law officer** — You may ask the marshal or sheriff to serve the defendant. A fee will be charged.
2. **Process server** — You may ask anyone who is *not a party* in your case and who is at least *18 years* old to serve the defendant. The person is called a **process server** and must personally give a copy of your claim to the defendant. The person must also sign a proof of service form showing when the defendant was served. Registered process servers will do this for you for a fee. You may also ask a friend or relative to do it.
3. **Certified mail** — You may ask the clerk of the court to serve the defendant by certified mail. The clerk will charge a fee. You should check back with the court prior to the hearing to see if the receipt for certified mail was returned to the court. **Service by certified mail must be done by the clerk's office except in motor vehicle accident cases involving out-of-state defendants.**
4. **Substituted service** — This method lets you serve another person instead of the defendant. You must follow the procedures carefully. You may also wish to use the marshal or sheriff or a registered process server.

*Except for an action against the Registrar of the Contractors State License Board, the $5,000 or $7,500 limit does not apply, and a $4,000 limit applies, if a "defendant guarantor . . . is required to respond based upon the default, actions, or omissions of another" ($2,500 if the defendant guarantor does not charge a fee for the service).

ORIGINAL

INFORMATION SHEET ON WAIVER OF COURT FEES AND COSTS
(California Rules of Court, rules 3.50–3.63)

If you have been sued or if you wish to sue someone, and if you cannot afford to pay court fees and costs, you may not have to pay them if:

1. You are receiving **financial assistance** under one or more of the following programs:
   - SSI and SSP (Supplemental Security Income and State Supplemental Payments Programs)
   - CalWORKs (California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Needy Families, formerly AFDC, Aid to Families with Dependent Children Program)
   - The Food Stamp Program
   - County Relief, General Relief (G.R.), or General Assistance (G.A.)

   If you are claiming eligibility for a waiver of court fees and costs because you receive financial assistance under one or more of these programs, and you did not provide your Medi-Cal number or your social security number and birthdate, you must produce documentation confirming benefits from a public assistance agency or one of the following documents, unless you are a defendant in an unlawful detainer action:

PROGRAM	VERIFICATION
SSI/SSP	Medi-Cal Card or Notice of Planned Action or SSI Computer-Generated Printout or Bank Statement Showing SSI Deposit or "Passport to Services"
CalWORKs/TANF (formerly known as AFDC)	Medi-Cal Card or Notice of Action or Income and Eligibility Verification Form or Monthly Reporting Form or Electronic Benefit Transfer Card or "Passport to Services"
Food Stamp Program	Notice of Action or Food Stamp ID Card or "Passport to Services"
General Relief/General Assistance	Notice of Action or Copy of Check Stub or County Voucher

–OR–

2. Your total gross **monthly household income** is equal to or less than the following amounts:

NUMBER IN FAMILY	FAMILY INCOME
1	$ 1,063.54
2	1,426.04
3	1,738.54
4	2,151.04
5	2,513.54

NUMBER IN FAMILY	FAMILY INCOME
6	$ 2,876.04
7	3,238.54
8	3,601.54
Each additional	362.50

–OR–

3. Your income is not enough to pay for the common **necessaries** of life for yourself and the people you support and also pay court fees and costs.

To apply, fill out the Application for Waiver of Court Fees and Costs (form FW-001) available from the clerk's office. If you claim no income, you may be required to file a declaration under penalty of perjury. Prison and jail inmates may be required to pay up to the full amount of the filing fee.

If you have any questions and cannot afford an attorney, you may wish to consult the legal aid office, legal services office, or lawyer referral service in your county (listed in the Yellow Pages under "Attorneys").

If you are asking for review of the decision of an administrative body under Code of Civil Procedure section 1094.5 (administrative mandate), you may ask for a transcript of the administrative proceedings at the expense of the administrative body.

Form Adopted for Mandatory Use
Judicial Council of California
FW-001-INFO [Rev. February 6, 2007]

Government Code, § 68511.3;
Cal. Rules of Court, rules 3.50–3.63
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

— THIS FORM MUST BE KEPT CONFIDENTIAL —

FW-001

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, state bar number, and address):*	FOR COURT USE ONLY
TELEPHONE NO.: FAX NO. *(Optional):*	
E-MAIL ADDRESS *(Optional):*	
ATTORNEY FOR *(Name):*	
NAME OF COURT:	
STREET ADDRESS:	
MAILING ADDRESS:	
CITY AND ZIP CODE:	
BRANCH NAME:	
PLAINTIFF/ PETITIONER:	
DEFENDANT/ RESPONDENT:	
APPLICATION FOR WAIVER OF COURT FEES AND COSTS	CASE NUMBER:

I request a court order so that I do not have to pay court fees and costs.

1. a. ☐ I am ***not*** able to pay any of the court fees and costs.
   b. ☐ I am able to pay ***only*** the following court fees and costs *(specify)*:

2. My current street or mailing address is *(if applicable, include city or town, apartment no., if any, and zip code)*:

3. a. My occupation, employer, and employer's address are *(specify)*:

   b. My spouse's occupation, employer, and employer's address are *(specify)*:

4. ☐ I am receiving financial assistance under one or more of the following programs:
   a. ☐ **SSI and SSP:** Supplemental Security Income and State Supplemental Payments Programs
   b. ☐ **CalWORKs:** California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Needy Families (formerly AFDC)
   c. ☐ **Food Stamps:** The Food Stamp Program
   d. ☐ **County Relief, General Relief (G.R.), or General Assistance (G.A.)**

5. *If you checked box 4, you must check and complete* ***one of the three boxes below, unless you are a defendant in an unlawful detainer action. Do not check more than one box.***
   a. ☐ *(Optional)* My Medi-Cal number is *(specify)*:
   b. ☐ *(Optional)* My social security number is *(specify)*:
      ☐☐☐ - ☐☐ - ☐☐☐☐ and my date of birth is *(specify)*:
      [Federal law does not require that you give your social security number. However, if you don't give your social security number, you must check box c and attach documents to verify the benefits checked in item 4.]
   c. ☐ I am attaching documents to verify receipt of the benefits checked in item 4, if requested by the court.
      [See Form FW-001-INFO, **Information Sheet on Waiver of Court Fees and Costs,** ***available from the clerk's office, for a list of acceptable documents.]***

[If you checked box 4 above, skip items 6 and 7, and sign at the bottom of this side.]

6. ☐ My total gross monthly household income is less than the amount shown on the *Information Sheet on Waiver of Court Fees and Costs* available from the clerk's office.

[If you checked box 6 above, skip item 7, complete items 8, 9a, 9d, 9f, and 9g on the back of this form, and sign at the bottom of this side.]

7. ☐ My income is not enough to pay for the common necessaries of life for me and the people in my family whom I support and also pay court fees and costs. ***[If you check this box, you must complete the back of this form.]***

WARNING: You must immediately tell the court if you become able to pay court fees or costs during this action. You may be ordered to appear in court and answer questions about your ability to pay court fees or costs.

I declare under penalty of perjury under the laws of the State of California that the information on both sides of this form and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME) ▶ (SIGNATURE)

(Financial information on reverse)

American LegalNet, Inc.
www.FormsWorkflow.com

FW-001

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:

FINANCIAL INFORMATION

8. ☐ My pay changes considerably from month to month. **[*If you check this box, each of the amounts reported in item 9 should be your average for the past 12 months.*]**

9. **MY MONTHLY INCOME**
   a. My gross monthly pay is: .... $ ________
   b. **My payroll deductions are *(specify purpose and amount)*:**
      (1) ________ $ ________
      (2) ________ $ ________
      (3) ________ $ ________
      (4) ________ $ ________
      My TOTAL payroll deduction amount is: $ ________
   c. My monthly take-home pay is *(a. minus b.)*: .... $ ________
   d. Other money I get each month is *(specify **source** and **amount**; include spousal support, child support, parental support, support from outside the home, scholarships, retirement or pensions, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest or royalty, trust income, annuities, net business income, net rental income, reimbursement of job-related expenses, and net gambling or lottery winnings)*:
      (1) ________ $ ________
      (2) ________ $ ________
      (3) ________ $ ________
      (4) ________ $ ________
      The TOTAL amount of other money is: $ ________
      (If more space is needed, attach page labeled Attachment 9d.)
   e. **MY TOTAL MONTHLY INCOME IS** (c. plus d.): .... $ ________
   f. Number of persons living in my home: ________
      Below list all the persons living in your home, including your spouse, who depend in whole or in part on you for support, or on whom you depend in whole or in part for support:

	Name	Age	Relationship	Gross Monthly Income
(1)				$
(2)				$
(3)				$
(4)				$
(5)				$

      The TOTAL amount of other money is: $ ________
      (If more space is needed, attach page labeled Attachment 9f.)
   g. **MY TOTAL GROSS MONTHLY HOUSEHOLD INCOME IS** *(a. plus d. plus f)*: .... $ ________

10. **I own or have an interest in the following property:**
   a. Cash .... $ ________
   b. Checking, savings, and credit union accounts (list *banks*):
      (1) ________ $ ________
      (2) ________ $ ________
      (3) ________ $ ________
      (4) ________ $ ________
   c. Cars, other vehicles, and boats *(list make, year, fair market value (FMV), and loan balance of each)*:

	Property	FMV	Loan Balance
(1)		$	$
(2)		$	$
(3)		$	$

   d. Real estate *(list address, estimated fair market value (FMV), and loan balance of each property)*:

	Property	FMV	Loan Balance
(1)		$	$
(2)		$	$
(3)		$	$

   e. Other personal property — jewelry, furniture, furs, stocks, bonds, etc. *(list separately)*:
      $ ________

11. **My monthly expenses not already listed in item 9b above are the following:**
   a. Rent or house payment & maintenance $ ________
   b. Food and household supplies .... $ ________
   c. Utilities and telephone .... $ ________
   d. Clothing .... $ ________
   e. Laundry and cleaning .... $ ________
   f. Medical and dental payments .... $ ________
   g. Insurance (life, health, accident, etc.) $ ________
   h. School, child care .... $ ________
   i. Child, spousal support (prior marriage) $ ________
   j. Transportation and auto expenses (insurance, gas, repair) .... $ ________
   k. Installment payments *(specify **purpose** and **amount**)*:
      (1) ________ $ ________
      (2) ________ $ ________
      (3) ________ $ ________
      The TOTAL amount of monthly installment payments is: .... $ ________
   l. Amounts deducted due to wage assignments and earnings withholding orders: $ ________
   m. Other expenses *(specify)*:
      (1) ________ $ ________
      (2) ________ $ ________
      (3) ________ $ ________
      (4) ________ $ ________
      (5) ________ $ ________
      The TOTAL amount of other monthly expenses is: .... $ ________
   n. **MY TOTAL MONTHLY EXPENSES ARE** *(add a. through m.)*: .... $ ________

12. Other facts that support this application are *(describe unusual medical needs, expenses for recent family emergencies, or other unusual circumstances or expenses to help the court understand your budget; if more space is needed, attach page labeled Attachment 12)*:

WARNING: You must immediately tell the court if you become able to pay court fees or costs during this action. You may be ordered to appear in court and answer questions about your ability to pay court fees or costs.

FW-003

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, state bar number, and address):*

TELEPHONE NO.: FAX NO.:
E-MAIL ADDRESS *(Optional):*
ATTORNEY FOR *(Name):*

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

PLAINTIFF/ PETITIONER:
DEFENDANT/ RESPONDENT:

CASE NUMBER:

ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS

1. The application was filed on *(date):* ☐ A previous order was issued on *(date):*
2. The application was filed by *(name):*
3. ☐ IT IS ORDERED that the application is **granted** ☐ in whole ☐ in part *(complete item 4 below).*
   a. ☐ **No payments.** Payment of all the fees and costs listed in California Rules of Court, rule 3.61, **is waived.**
   b. ☐ **The applicant shall pay** all the fees and costs listed in California Rules of Court, rule 3.61, EXCEPT the following:
      (1) ☐ Filing papers.
      (2) ☐ Certification and copying.
      (3) ☐ Issuing process and certification.
      (4) ☐ Transmittal of papers.
      (5) ☐ Court-appointed interpreter.
      (6) ☐ Sheriff and marshal fees.
      (7) ☐ Reporter's fees* *(valid for 60 days).*
      (8) ☐ Telephone appearance (Gov. Code, § 68070.1 (c))
      (9) ☐ Other *(specify code section):*

      Reporter's fees are per diem pursuant to Code Civ. Proc., §§ 269, 274c, and Gov. Code, §§ 69947, 69948, and 72195.
   c. **Method of payment.** The applicant shall pay all the fees and costs when charged, EXCEPT as follows:
      (1) ☐ Pay *(specify):* percent. (2) ☐ Pay: $ per month or more until the balance is paid.
   d. The clerk of the court, county financial officer, or appropriate county officer is authorized to require the applicant to appear before and be examined by the court no sooner than four months from the date of this order, and not more than once in any four-month period. ☐ The applicant is ordered to appear in this court as follows for review of his or her financial status:

Date:	Time:	Dept.:	Div.:	Room:

   e. ☐ The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.
   f. **All unpaid fees and costs shall be deemed to be taxable costs if the applicant is entitled to costs and shall be a lien on any judgment recovered by the applicant and shall be paid directly to the clerk by the judgment debtor upon such recovery.**
4. ☐ IT IS ORDERED that the application is **denied** ☐ in whole ☐ in part for the following reasons *(see Cal. Rules of Court, rules 3.50–3.63):*
   a. ☐ Monthly household income exceeds guidelines (Gov. Code, § 68511.3(a)(6)(B); form FW-001-INFO).
   b. ☐ Other *(Complete line 4b on page 2).*
   c. The applicant shall pay any fees and costs due in this action within 10 days from the date of service of this order or any paper filed by the applicant with the clerk will be of no effect.
   d. The clerk is directed to mail a copy of this order to all parties who have appeared in this action.
5. ☐ IT IS ORDERED that a **hearing** be held.
   a. The substantial evidentiary conflict to be resolved by the hearing is *(specify):*
   b. The applicant should appear in this court at the following hearing to help resolve the conflict:

Date:	Time:	Dept.:	Div.:	Room:

   c. The address of the court is *(specify):*
      ☐ Same as above
   d. The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.

NOTICE: If item 3d or item 5b is filled in and the applicant does not attend the hearing, the court may revoke or change the order or deny the application without considering information the applicant wants the court to consider.

WARNING: The applicant must immediately tell the court if he or she becomes able to pay court fees or costs during this action. The applicant may be ordered to appear in court and answer questions about his or her ability to pay fees or costs.

Date:

☐ ______________________________ ☐ Clerk, by ______________________________, Deputy
JUDICIAL OFFICER *(Clerk may GRANT in full a nondiscretionary fee waiver; see Cal. Rule of Court, rules 3.56.)*

Form Adopted for Mandatory Use
Judicial Council of California
FW-003 [Rev. January 1, 2007]

ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS (Fee Waiver)

Government Code, § 68511.3;
Cal. Rules of Court, rules 3.50–3.63
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

FW-003

PLAINTIFF/PETITIONER *(Name)*: DEFENDANT/RESPONDENT *(Name)*:	CASE NUMBER:

4b ☐ Application is denied in whole or in part *(specify reasons)*:

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at *(place)*: , California, on *(date)*:

Clerk, by ______________________________, Deputy

(SEAL)

CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: Clerk, by ______________________________, Deputy

FW-005

ATTORNEY OR PARTY WITHOUT ATTORNEY (*Name and Address*): TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (*Name*):	
NAME OF COURT, JUDICIAL DISTRICT OR BRANCH COURT, IF ANY:	
PLAINTIFF: DEFENDANT:	
NOTICE OF WAIVER OF COURT FEES AND COSTS	CASE NUMBER:

1. The application for waiver of court fees and costs was filed

   a. on (date):

   b. by (name):

2. The application was granted by operation of law.

3. The applicant may proceed in this action without payment of
   a. ☐ court fees and costs listed in rule 3.61 of the California Rules of Court.
   b. ☐ the following court fees and costs (specify):

Dated: ______________________ Clerk, by ______________________ (Deputy)

CLERK'S CERTIFICATION

(SEAL)

I certify that the foregoing is a true copy of the original on file in my office.

Dated: .... Clerk, by .... (Deputy)

Form Adopted for Mandatory Use
Judicial Council of California
FW-005 [Rev. January 1, 2007]

NOTICE OF WAIVER OF COURT FEES AND COSTS
(Fee Waiver)

Government Code § 68511.3;
Cal. Rules of Court, rules 3.50–3.63
www.courtinfo.ca.gov

American LegalNet, Inc.
www.Forms*Workflow*.com

JS44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

2254 1983
FILING FEE PAID
Yes ____ No ✓
IFP MOTION FILED
Yes ____ No ✓
COPIES SENT TO
Court ✓ ProSe

FILED
JUN 20 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY ____ DEPUTY

I (a) PLAINTIFFS

Carl Simmons

DEFENDANTS

Davis

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF **Imperial**
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Carl Simmons
PO Box 5002
Calipatria, CA 92233
E-96088

ATTORNEYS (IF KNOWN)

'08 CV 1127 W POR

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
☐ 110 Insurance
☐ Marine
☐ Miller Act
☐ Negotiable Instrument
☐ 150 Recovery of Overpayment &Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153Recovery of Overpayment of Veterans Benefits
☐ 160 Stockholders Suits
☐ Other Contract
☐ 195 Contract Product Liability

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY
☐ 362 Personal Injury- Medical Malpractice
☐ 365 Personal Injury - Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC881
☐ 630 Liquor Laws
☐ 640 RR & Truck
☐ 650 Airline Regs
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710Fair Labor Standards Act
720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (13958)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
☐ 400 State Reappointment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 810 Selective Service
☐ 850 Securities/Commodities Exchange
☐ 875 Customer Challenge 12 USC
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State
☐ 890 Other Statutory Actions

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectmant
☐ 240 Tort to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 444 Welfare
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence Habeas Corpus
☒ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 DEMAND $ Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 6/20/2008 ~~SIGNATURE OF ATTORNEY OF RECORD~~

R. Mealey